

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of Applications of	)	
	)	
NATIONAL SCIENCE AND TECHNOLOGY	)	
NETWORK, INC.	)	
	)	
Informal Objection Filed by Mobile Relay	)	File No. 0002919006
Associates	)	
	)	
Informal Objection Filed by Mobile Relay	)	File No. 0002919011
Associates; Joint Request for Dismissal or Denial	)	
Filed by Comm Enterprises, LLC, James A. Kay,	)	
MS Airwaves, Inc., and Marc D. Sobel	)	

**ORDER**

**Adopted: March 13, 2007**

**Released: March 14, 2007**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* On February 20, 2007, National Science and Technology Network, Inc. (NSTN) filed application FCC File No. 0002919006 to modify its license for Industrial/Business Pool Station WPM274 to, *inter alia*, add channels at Glendale, California; and application FCC File No. 0002919011 for a new Industrial/Business Pool station on different frequencies at the Glendale location. Mobile Relay Associates (MRA) filed informal objections to both applications,<sup>1</sup> and Comm Enterprises, LLC, James A. Kay, MS Airwaves, Inc., and Marc D. Sobel (Joint Petitioners) filed an informal objection to application 0002919011.<sup>2</sup> For the reasons set forth below, we grant the objections. Consequently, we will dismiss application 0002919006 in part, and dismiss application 0002919011 in full.

2. *Background.* NSTN requests authority to operate new and expanded trunked radio systems on 12.5 kHz “offset” channels in the 470-512 MHz band. It proposes to operate with a 12.5 kHz bandwidth.

3. In 1997, the Commission directed the certified frequency coordinators for the private land mobile radio services to reach a consensus on the applicable coordination procedures for the 12.5 kHz “offset” channels in the 470-512 MHz frequency band.<sup>3</sup> That consensus is embodied in the Land Mobile Communications Council (LMCC) procedures for evaluating adjacent channel interference in the 470-512 MHz band using the interference criteria of TIA/EIA/TSB-88 (TSB-88).<sup>4</sup> The LMCC Consensus

<sup>1</sup> Informal Objection [to application 0002919011] filed on June 21, 2007 by MRA; Informal Objection [to application 0002919006] filed on October 26, 2007 by MRA.

<sup>2</sup> Joint Request for Dismissal or Denial filed on May 21, 2007 by Comm Enterprises, LLC, James A. Kay, MS Airwaves, Inc., and Marc D. Sobel.

<sup>3</sup> See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd 14307, 14330-31 ¶ 43 (1997).

<sup>4</sup> See Filing Freeze to be Lifted for Applications under Part 90 for 12.5 kHz Offset Channels in the 421-430 and 470-512 MHz Bands, *Public Notice*, 13 FCC Rcd 5942, 5942 (WTB 1997) (citing Letter from Larry A. Miller, President, LMCC, to Daniel B. Phythyon, Esq., Acting Chief, Wireless Telecommunications Bureau (Sept. 10, 1997) (LMCC Consensus)).

provides that an application shall not be certified if an incumbent or the applicant has unacceptable interference of more than five percent reduction of the calculated service area reliability.<sup>5</sup>

4. *Discussion.* NSTN's applications rely on a then-recent Mobility Division decision<sup>6</sup> for the proposition that a TSB-88 analysis is not required for the proposed operations because there is no spectral overlap between the proposed facility and the existing facilities of MRA and the Joint Petitioners. The Mobility Division subsequently reversed that decision, however, and explained that the earlier finding of no spectral overlap was due to a mathematical error.<sup>7</sup> We conclude that there is spectral overlap in the present instance: MRA and the Joint Petitioners operate on 25 kHz channels (with an occupied bandwidth of 20 kHz), so NSTN's proposed operations on 12.5 kHz channels (with an occupied bandwidth of 11.25 kHz) on center frequencies 12.5 kHz removed from MRA's and the Joint Petitioners' center frequencies results in overlap.<sup>8</sup> Therefore, NSTN's applications are required to satisfy the criteria of TSB-88.

5. MRA and the Joint Petitioners have submitted TSB-88 analyses indicating interference exceeding the acceptable five percent reduction of the calculated service area reliability for each frequency requested in application 0002919011, and our engineering staff's independent studies confirm those results. In addition, MRA asserts that four of the frequencies that NSTN seeks to add to Station WPM274's Glendale location also would cause impermissible interference.<sup>9</sup> We conclude that the coordination of the NSTN applications was defective because the proposed operations would not afford the required interference protection to the adjacent-channel stations of MRA and the Joint Petitioners. We therefore will dismiss application 0002912006 insofar as it seeks to add frequency pairs 471/474.500 MHz, 472/475.000 MHz, 472/475.350 MHz, and 472/475.375 MHz to locations 5, 14, and 15; and dismiss application 0002919011 in full.

6. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), that application FCC File No. 0002919006, filed by National Science and Technology Network, Inc. on February 20, 2007, SHALL BE DISMISSED IN PART and PROCESSED consistent with this *Order* and the Commission's Rules.

7. IT IS FURTHER ORDERED that application FCC File No. 0002919011, filed by National Science and Technology Network, Inc. on February 20, 2007, SHALL BE DISMISSED.

8. IT IS FURTHER ORDERED that the Joint Request for Dismissal or Denial filed on May 21, 2007 by Comm Enterprises, LLC, James A. Kay, Jr., MS Airwaves, Inc., and Marc D. Sobel; the Informal Objection to application FCC File No. 0002919011 filed by Mobile Relay Associates on June 21, 2007; and the Informal Objection to application FCC File No. 0002919006 filed by Mobile Relay Associates on October 26, 2007, ARE GRANTED.

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<sup>5</sup> See LMCC Consensus, Attachment at 2.

<sup>6</sup> National Science and Technology Network, Inc., *Order*, 22 FCC Rcd 1953, 1954 n.10 (WTB MD 2007).

<sup>7</sup> See National Science and Technology Network, Inc., *Order on Reconsideration*, 22 FCC Rcd 18644, 18646 ¶ 6 (WTB MD 2007), *recon. pending*.

<sup>8</sup> See *id.* (citing National Science and Technology Network, Inc., *Order*, 22 FCC Rcd 11538, 11539 ¶ 3 (WTB MD 2007) (citing City of Los Angeles, Department of Airports, *Order*, 22 FCC Rcd 1808, 1810 ¶ 10 (PSHSB PD 2007), *recon. pending*), *recon. pending*); License Communications Services, Inc., *Order Proposing Modification*, 22 FCC Rcd 17596, 17597 ¶ 5 (WTB MD 2007), *protest pending*.

<sup>9</sup> MRA does not appear to object to the other license modifications requested in application 0002919006.

9. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone  
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Wireless Telecommunications Bureau